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10/658,013	09/09/2003	Osamu Kimoto	81710.0258	4037

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MENBERU, BENIYAM	
ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/658,013	KIMOTO, OSAMU	
	Examiner	Art Unit	
	BENIYAM MENBERU	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18 and 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18 and 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Arguments

1. Applicant's arguments with respect to claims 1, 6, 13, 18, and 23 have been considered but are moot in view of the new ground(s) of rejection.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

3. Certified English translation of 2002-302521 and 2003-194093 must be submitted in order to overcome the rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 6, 11, 12, 13, 14, 18, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7277197 to Yoshida.

Regarding claim 1, Yoshida '197 discloses a color image communication device comprising:

means for transmitting by facsimile, image data of a sYCC-Joint Photographic Experts Group (JPEG) color space (column 6, lines 5-17; column 7, lines 25-28, 53-59; If Bit 68 and Bit X is set then sYCC JPEG data is transmitted); and

means for controlling a non-electronic mail facsimile transmission of the image data of the sYCC-JPEG color space without setting size information in a non-electronic mail facsimile communication protocol when the image data to be transmitted by facsimile is the image data of the sYCC-JPEG color space (Figure 3, transmission selected in s10, followed by step s28, s30, s32, and “yes” in step s34 in Figure 4, followed by steps s42, s44, s46, s48 (figure 5) original document transmission **without use of electronic mail**; If “NO” is selected in s42 in Figure 5, steps s52, s54, s56, s58 follow wherein transmission **does not use electronic mail**. When yes in step s52, Bits 68 and X are on which means sYCC JPEG transmission. If "yes" in step s54, then bit X+1 is set to 1 which means that non-regular sized data is transmitted (see Figure 2; column 7, lines 59-64; column 9, lines 34-59; column 10, lines 7-10). Since specific size is not set for this transmission this reads on without setting size information.).

Regarding claim 2, Yoshida '197 teaches all the limitations of claim 1. Further Yoshida '197 discloses the color image communication device according to claim 1, wherein when the image data to be transmitted by facsimile is image data of the sYCC-JPEG color space, the means for controlling controls a facsimile transmission

of the sYCC-JPEG color space without setting size information in a Digital Command Signal (DCS) of the facsimile communication protocol (Figure 2; column 7, lines 61-63).

Regarding claim 6, Yoshida '197 discloses a color image communication device comprising:

means for transmitting color image data of a first color space in accordance with a non-electronic mail facsimile communication protocol (column 7, lines 25-34; Bit 69 specifies LAB color space; column 9, lines 12-30; LAB color space transmission in step s48; Figure 3, transmission selected in s10, followed by step s28, s30, s32, and "yes" in step s34 in Figure 4, followed by steps s42, s44, s46, s48 (figure 5) original document transmission **without use of electronic mail**; If "NO" is selected in s42 in Figure 5, steps s52, s54, s56, s58 follow wherein transmission **does not use electronic mail**.);

means for transmitting color image data of a second color space in accordance with the non-electronic mail facsimile communication protocol (column 7, lines 54-49 ; if Bit X is set sYCC color space is used; column 9, lines 31-57; sYCC color transmission; Figure 3, transmission selected in s10, followed by step s28, s30, s32, and "yes" in step s34 in Figure 4, followed by steps s42, s44, s46, s48 (figure 5) original document transmission **without use of electronic mail**; If "NO" is selected in s42 in Figure 5, steps s52, s54, s56, s58 follow wherein transmission **does not use electronic mail**.); and means for controlling a facsimile transmission of color image data by setting

size information in the non-electronic mail facsimile communication protocol when the color image data is the color image data of the first color space (column 1, lines 14-18, 25-30; column 9, lines 44-49; A4 size corresponds to Lab color space (first color space)), and to carry out a non-electronic mail facsimile transmission of the color image data without setting the size information in the non-electronic mail facsimile communication protocol when the color image data is the color image data of the second color space (When yes in step s52, Bits 68 and X are on which means sYCC JPEG transmission. If "yes" in step s54, then bit X+1 is set to 1 which means that non-regular sized data is transmitted (see Figure 2; column 7, lines 59-64; column 9, lines 34-59; column 10, lines 7-10). Since specific size is not set for this transmission this reads on without setting size information.).

Regarding claim 11, Yoshida '197 teaches all the limitations of claim 6. Further Yoshida '197 discloses the color image communication device according to claim 6, wherein image data of a sYCC-Joint Photographic Experts Group (JPEG) color space is included as the color image data of the second color space (column 6, lines 5-17; column 7, lines 25-28, 53-59; If Bit 68 and Bit X is set then sYCC JPEG data is transmitted).

Regarding claim 12, Yoshida '197 teaches all the limitations of claim 6. Further Yoshida '197 discloses the color image communication device according to claim 6, wherein image data of a CIELAB color space is included as the color image data of the first color space (column 7, lines 25-34; Bit 69 is on for LAB color space).

Regarding claim 13, Yoshida '197 discloses a color image communication method comprising:

determining whether or not color image data to be transmitted is image data of a sYCC-Joint Photographic Experts Group (JPEG) color space, prior to a facsimile transmission of the color image data (column 7, lines 25-29, 54-59; if bit 68 and X are set then sYCC JPEG data is set for transmission (column 9, lines 30-36).); and

transmitting image data of the sYCC-JPEG color space by non-electronic mail facsimile without setting size information in a non-electronic mail facsimile communication protocol (Figure 3, transmission selected in s10, followed by step s28, s30, s32, and “yes” in step s34 in Figure 4, followed by steps s42, s44, s46, s48 (figure 5) original document transmission **without use of electronic mail**; If “NO” is selected in s42 in Figure 5, steps s52, s54, s56, s58 follow wherein transmission **does not use electronic mail**.) when the color image data to be transmitted is image data of the sYCC-JPEG color space (Figure 3, transmission selected in s10, followed by step s28, s30, s32, and “yes” in step s34 in Figure 4, followed by steps s42, s44, s46, s48 (figure 5) original document transmission without use of electronic mail; If “NO” is selected in s42 in Figure 5, steps s52, s54, s56, s58 follow wherein transmission does not use electronic mail. When yes in step s52, Bits 68 and X are on which means sYCC JPEG transmission. If "yes" in step s54, then bit X+1 is set to 1 which means that non-regular sized data is transmitted (see Figure 2; column 7, lines 59-64; column 9, lines 34-59; column 10, lines 7-10). Since specific size is not set for this transmission this reads on without setting size information.).

Regarding claim 14, Yoshida '197 teaches all the limitations of claim 13. Further Yoshida '197 discloses the color image communication method according to claim 13, wherein when the color image data to be transmitted is image data of the sYCC-JPEG color space, the image data of the sYCC-JPEG color space is transmitted by facsimile without setting the size information in a Digital Command Signal (DCS) of the facsimile communication protocol (column 7, lines 25-29, 54-63; when bit 68, X is on SYCC-JPEG data is transmitted; when bit X+1 is set non-regular sized data is transmitted which is not a specific size information.).

Regarding claim 18, Yoshida '197 discloses a color image communication method comprising:

determining whether or not color image data to be transmitted is image data of a sYCC-Joint Photographic Experts Group (JPEG) color space, prior to a facsimile transmission of the color image data (column 7, lines 25-29, 54-59; if bit 68 and X are set then sYCC JPEG data is set for transmission (column 9, lines 30-36).); and

transmitting image data of the sYCC-JPEG color space by non-electronic mail facsimile (Figure 3, transmission selected in s10, followed by step s28, s30, s32, and "yes" in step s34 in Figure 4, followed by steps s42, s44, s46, s48 (figure 5) original document transmission **without use of electronic mail**; If "NO" is selected in s42 in Figure 5, steps s52, s54, s56, s58 follow wherein transmission **does not use electronic mail**.) without setting size information in a non-electronic mail facsimile communication protocol when the color image data to be transmitted is the image data of the sYCC-JPEG color space (When yes in step s52, Bits 68 and X are on which

means sYCC JPEG transmission. If "yes" in step s54, then bit X+1 is set to 1 which means that non-regular sized data is transmitted (see Figure 2; column 7, lines 59-64; column 9, lines 34-59; column 10, lines 7-10). Since specific size is not set for this transmission this reads on without setting size information.), and transmitting image data of a color space other than the sYCC-JPEG color space by non-electronic mail facsimile by setting size information in the non-electronic mail facsimile communication protocol when the color image data to be transmitted is not the sYCC-JPEG color space (column 1, lines 14-18, 25-30; column 9, lines 44-49; A4 size corresponds to Lab color space (first color space); column 9, lines 19-30; Lab color space is transmitted.).

Regarding claim 23, Yoshida '197 discloses a color image communication device comprising:

a transmission unit which carries out a facsimile transmission of image data of a sYCC-Joint Photographic Experts Group (JPEG) color space (column 6, lines 5-17; column 7, lines 25-28, 53-59; If Bit 68 and Bit X is set then sYCC JPEG data is transmitted; column 9, lines 32-42;); and

a control unit which controls a non-electronic mail facsimile transmission of the image data of the sYCC-JPEG color space without setting size information in a non-electronic mail facsimile communication protocol (Figure 3, transmission selected in s10, followed by step s28, s30, s32, and “yes” in step s34 in Figure 4, followed by steps s42, s44, s46, s48 (figure 5) original document transmission **without use of electronic mail**; If “NO” is selected in s42 in Figure 5, steps s52, s54, s56, s58 follow wherein transmission **does not use electronic mail**.) when the image data to be

transmitted by non-electronic mail facsimile is the image data of the sYCC-JPEG color space (When yes in step s52, Bits 68 and X are on which means sYCC JPEG transmission. If "yes" in step s54, then bit X+1 is set to 1 which means that non-regular sized data is transmitted (see Figure 2; column 7, lines 59-64; column 9, lines 34-59; column 10, lines 7-10). Since a specific size is not set for this transmission this reads on without setting size information.).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 3, 4, 5, 8, 9, 10, 15, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7277197 to Yoshida in view of U.S. Patent No. 6259469 to Ejima et al.

Regarding claim 3, Yoshida '197 teaches all the limitations of claim 1. Further Yoshitani et al '702 discloses the color image communication device according to claim 1, wherein when the image data to be transmitted by facsimile is image data of the sYCC-JPEG color space, the means for controlling controls a facsimile transmission of a file of the image data of the sYCC-JPEG color space without setting size information in the facsimile communication protocol (When yes in step s52, Bits 68 and X are on

which means sYCC JPEG transmission. If "yes" in step s54, then bit X+1 is set to 1 which means that non-regular sized data is transmitted (see Figure 2; column 7, lines 59-64; column 9, lines 34-59; column 10, lines 7-10). Since a specific size is not set for this transmission this reads on without setting size information.). However Yoshitani et al '702 does not disclose a format in which function information is attached in the file.

Ejima et al '469 discloses a format in which function information is attached in the file (column 24, lines 30-45; The header 70 is function information attached for the file shown in Figure 22.).

Having the system of ***Yoshida '197*** and then given the well-established teaching of ***Ejima et al '469***, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of ***Yoshida '197*** as taught by ***Ejima et al '469***, since ***Ejima et al '469*** stated in col. 24, Lines 39-42, such a modification would provide controlling data for communication.

Regarding claim 4, Yoshida '197 in view of Ejima et al '469 teaches all the limitations of claim 3. Further Ejima et al '469 discloses the color image communication device according to claim 3, wherein the function information includes information indicating a fact that the image data included in the file to be transmitted is an image from a digital camera (column 24, lines 30-45; The header 70 contains identification of the electronic camera.).

Regarding claim 5, Yoshida '197 in view of ***Ejima et al '469*** teaches all the limitations of claim 3. Further Yoshida '197 discloses the color image communication

device according to claim 3, wherein the function information includes information indicating a number of pixels of the image data (column 7, lines 7-15; Bits 15 and 41 can be used to specify resolution for transmission;).

Regarding claim 8, see rejection of claim 3 as shown above wherein the second color space is the sYCC-Jpeg color space.

Regarding claim 9, see rejection of claim 4 as shown above. The device of Yoshida '197 in view of Ejima et al '469 render obvious the device of claim 9.

Regarding claim 10, Yoshida '197 in view of Ejima et al '469 teaches all the limitations of claim 8. Further Yoshida '197 discloses the color image communication device according to claim 8, wherein the function information includes information indicating a number of pixels of the image data (column 7, lines 7-15; Bits 15 and 41 can be used to specify resolution for transmission;).

Regarding claim 15, see rejection of claim 3 as shown above. The device of Yoshida '197 in view of Ejima et al '469 render obvious the method of claim 15.

Regarding claim 16, see rejection of claim 4 as shown above. The device of Yoshida '197 in view of Ejima et al '469 render obvious the method of claim 16.

Regarding claim 17, Yoshida '197 in view of Ejima et al '469 teaches all the limitations of claim 15. Further Yoshida '197 discloses the color image communication method according to claim 15, wherein the function information includes information indicating a number of pixels of the image data (column 7, lines 7-15; Bits 15 and 41 can be used to specify resolution for transmission;).

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7277197 to Yoshida in view of U.S. Patent Application Publication No. US 2002/0039201 A1 to Yoshida.

Regarding claim 7, Yoshida '197 teaches all the limitations of claim 6. Further Yoshida '197 discloses wherein in case of the color image data of the first color space, the means for controlling controls a facsimile transmission of the color image data by setting the size information (column 1, lines 14-18, 25-30; column 9, lines 44-49; A4 size corresponds to Lab color space (first color space)) and wherein in case of the color image data of the second color space, the means for controlling controls a facsimile transmission of the color image data without setting the size information in a DCS signal of a facsimile communication protocol (When yes in step s52, Bits 68 and X are on which means sYCC JPEG transmission. If "yes" in step s54, then bit X+1 is set to 1 which means that non-regular sized data is transmitted (see Figure 2; column 7, lines 59-64; column 9, lines 34-59; column 10, lines 7-10). Since specific size is not set for this transmission this reads on without setting size information.). However Yoshida '197 does not disclose setting the size (ie. A4) in the DCS signal of the facsimile communication protocol.

Yoshida '201 discloses setting the size (ie. A4) in the DCS signal of the facsimile communication protocol (Figure 2 shows the DCS signal bits information; In Figure 5, for color transmission (yes in s40 and yes in s42), the different document sizes are set based on step s44. In Figure 6 when A3 is set, bits X, X+1 of DCS is set to 0,1 corresponding to color A3 size in step s50 (page 3, paragraph 68)).

Having the system of ***Yoshida '197*** and then given the well-established teaching of ***Yoshida '201***, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of ***Yoshida '197*** as taught by ***Yoshida '201***, since ***Yoshida '201*** stated in page 4, paragraph 92, 93, such a modification would provide the size information necessary for transmitter and receiver to communicate correctly.

Other Prior Art Cited

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6791710 to Bannai disclose imaging system.

U.S. Patent No. 5956162 to Nobuta disclose communication system.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENIYAM MENBERU whose telephone number is (571) 272-7465. The examiner can normally be reached on 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is (571) 272-2600. The group receptionist number for TC 2600 is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner
Beniyam Menberu

/Beniyam Menberu/

Examiner, Art Unit 2625

11/13/2008

/David K Moore/

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